

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

v. : CIVIL ACTION
:
:
:
:
: NO.

SCHEDULING ORDER FOR PRELIMINARY INJUNCTION

AND NOW, this day of , , it is hereby ORDERED that a preliminary injunction hearing shall be held on at .M. in Courtroom 11A, United States Courthouse, Philadelphia, Pennsylvania.

IT IS FURTHER ORDERED that:

1. Discovery shall be expedited and shall proceed forthwith and continue in such manner as will assure that all requests for and responses to discovery will be served, noticed and completed by _____.

2. Counsel for the parties shall meet to prepare a complete and comprehensive stipulation of uncontested facts as described pursuant to paragraph (d)(2)(b)(2) of Local Rule of Civil Procedure 16.1, and such stipulation shall be submitted to the Court (Chambers 11614) in an original and two (2) copies for approval not later than .M. on 199.

3. Plaintiff shall file with the Clerk the original and submit two (2) copies to Chambers (including a word processing disc compatible with "Word Perfect 5.1 or 6.1") not later than .M. on , 199, (a) proposed findings of fact, annotated to the record (the record

consisting of items such as expected testimony with the name of the witness, exhibits by number, designated discovery papers, affidavits, and pleadings),

(b) proposed conclusions of law, (c) a legal memorandum discussing the facts of this case and the applicable law, (d) a witness list, and (e) proposed orders. The witnesses shall be listed in the order they will appear and the list shall contain a short statement of the evidence each witness will give.

4. Defendants shall likewise file with the Clerk the original and submit two (2) copies to Chambers (including a word processing disc compatible with "Word Perfect 5.1 or 6.1") not later than .M. on , 1999, (a) proposed findings of fact, annotated to the record (the record consisting of items such as expected testimony with the name of the witness, exhibits by number, designated discovery papers, affidavits, and pleadings), (b) proposed conclusions of law, (c) a legal memorandum discussing the facts of this case and the applicable law, (d) a witness list, and (e) proposed orders. The witnesses shall be listed in the order they will appear and the list shall contain a short statement of the evidence each witness will give.

5. Counsel for the parties shall meet to prepare a stipulation as to the authenticity of exhibits to be presented at the hearing. All exhibits which the parties shall present at the hearing shall be shown to each other party prior to the hearing and shall be numbered in advance of the hearing; the Court at the hearing, or earlier, shall be supplied with copies of each exhibit in duplicate; each party shall prepare and submit to the Court at the commencement of the hearing a schedule in triplicate of such exhibits containing the numbers and a brief description of each exhibit; paragraph (d)(2)(b)(6) of Local Rule of Civil Procedure 16.1 shall be complied with generally in respect to exhibits.

6. No later than the deadline set forth in Paragraph 2 above for filing the stipulation of facts:

(A) All parties shall exchange all experts' reports, complete experts' depositions or answer expert interrogatories.

(B) Any party expecting to offer opinion testimony from lay witnesses pursuant to Federal Rule of Evidence 701 shall declare such intent a written offer of proof filed and served on all opposing parties (with a courtesy copy to Chambers). Such declaration must include at least the name of each such witness, the opinion to be offered, the basis for the opinion, and if not disclosed by prior discovery, the background, training, experience and contract with the facts of the case sufficient to lay a foundation for the opinion.

(C) Any party objecting to the admissibility of any proffered opinion shall include an objection clearly and concisely in their hearing memorandum of law. No party shall include any such objection on the basis that the expert opinion or lay opinion provided is vague, incomplete or ambiguous unless counsel for the objecting party has attempted to resolve such perceived failings with the offering party and certifies to that effort and the results in the written objection.

7. If any party desires an "offer of proof" as to any witness or exhibit expected to be offered, that party shall inquire of counsel prior to the hearing for such information. If the inquiring party is dissatisfied with any offer provided, such party shall file a motion seeking relief from the Court prior to the hearing. THE COURT WILL NOT INTERRUPT HEARING PROCEEDINGS ON THE APPLICATION OF ANY PARTY FOR AN "OFFER OF PROOF."

8. Only those exhibits, designated discovery items, and testimony of expert witnesses whose answers to expert interrogatories or reports and qualifications or lay opinion testimony have been furnished in the manner set forth in this Order, shall be considered by the Court for admission into evidence at the hearing, unless stipulated to by all affected parties and approved by the Court, or by Order of Court so as to avoid manifest injustice.

9. Presentation of testimony by all witnesses in person in the Courtroom is preferred and expected by the Court. A stipulation of counsel that deposition testimony may be used at the hearing is not binding on the Court. If any party expects to contend that a witness is unavailable at the time of the hearing as defined in Federal Rule of Civil Procedure 32(a)(4), and if the Court rules that deposition testimony may be used, the Court expects use of oral or videotape depositions at the hearing of any such witness whose testimony a party believes essential to the presentation of that party's case, whether that witness is a party, a non-party or an expert. The unavailability of any such witness will not be a ground to delay the commencement or progress of the hearing. In the event leave of Court is secured and a deposition is to be offered, the offering party shall file with the Court, prior to the commencement of the hearing, a copy of the deposition transcript, but only after all efforts have been made to resolve objections with other counsel. Unresolved objections shall be noted in the margin of the deposition page(s) where a Court ruling is necessary and a covering list of such objections supplied therewith.

10. **EXTENSIONS OF TIME:** Any necessary application for extension of any time deadlines, change in conference(s) or trial date(s) set forth in this Order shall be made by written motion filed in conformity with Local Rule of Civil Procedure 7.1 and served no later than ten days prior to the date sought to be changed or extended. Any such motion shall include

a factual verification of counsel or relevant party or witness showing good cause for the request and shall contain a statement of the position of all other parties as to the request.

11. Counsel shall become familiar with Local Rule of Civil Procedure 16.1 and follow generally the provisions of that Rule in respect to the hearing.

LOWELL A. REED, JR., S.J.

(Form: 9/18/97)